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Patrick Moran - President

**SB494- Maryland State Department of Education -Employee Status and Designation
Finance Committee
March 3, 2023
Favorable**

AFSCME Council 3 supports SB 949. This legislation converts employees who work at the Maryland State Department of Education (MSDE) and who are currently misclassified as “at-will” special appointees, into merit positions within the state personnel management system (SPMS) and places them within their appropriate bargaining units. This will mean that they finally have due process rights and access to the grievance procedure, as well as union rights and an ability to collectively bargain.

These employees are clerical employees, licensing specialists, caseworkers, etc. who would have these merit rights if they worked in any other state agency, but they were hired at the MSDE at a time when all employees were hired in as special appointees. They receive state health and pension benefits, they just don’t receive due process rights.

State Personnel and Pensions Article 6-405 places the following criteria for special appointments;

- (1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;
- (2) a position to which an individual is directly appointed by the Board of Public Works;
- (3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;
- (4) a position that is assigned to the Government House;
- (5) a position that is assigned to the Governor’s Office; and
- (6) any other position that is specified by law to be a special appointment.

For special appointees who aren’t directly appointed by the Governor or Board of Public Works, or who don’t work in Government House or in the Governor’s Office, or don’t play a significant policy role or a direct support role to a member of the executive service — the decision to keep them at-will special appointees is just a policy decision.

The merit system provides more than just “for cause” terminations. It also guarantees merit employees:

- Reinstatement rights should there be a layoff.
- A fair process for promotions and training employees
- A Transparent hiring processes.
- The right to seek damages if there’s a paycheck error that goes unresolved.
- The right to a grievance procedure to resolve disputes and so on.

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Prior to 2019, the legislator recognized a substantial number of state employees were considered “at-will” at MSDE. In 2019, the legislature changed this practice when they required all new hires at MSDE to be merit through the passage of [HB 390/CH645 \(2019\)](#) . This legislation only impacted new hires since July 1, 2019. As a result, employees hired as special appointees prior to July 1, 2019, are now working alongside peers who do the same work, have less seniority, but have more rights now. We believe this quite unfair and this needs to be rectified.

Ultimately, SB 494 is about fairness for those “at-will” employees a MSDE who stand to benefit from this legislation and have been denied merit stands for too long with other protection and benefits their co-worker have. SB 494 can helps ensure they get that protection at the workplace. We urge the committee to provide a favorable recommendation on SB 494.